

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA

v.

PATRICK DEAL
Defendant.

Criminal No. 04-10185-GAO

**MOTION OF DEFENDANT PATRICK DEAL: (1) TO REVISE CONDITIONS
OF PROBATION TO DELETE THE REQUIREMENT THAT MR. DEAL
PAY THE FEES FOR ELECTRONIC MONITORING; AND
(2) FOR FUNDS TO PAY THE COST OF THE TELEPHONE
LINE NECESSARY FOR ELECTRONIC MONITORING**

Defendant Patrick Deal ("Mr. Deal") hereby moves: (1) to revise his conditions of probation to delete the requirement that Mr. Deal pay the fees associated with electronic monitoring; and (2) for payment of the costs of the telephone service required for Mr. Deal's electronic monitoring either by Federal Probation Services, pursuant to a grant of funds under the Criminal Justice Act ("CJA"), or otherwise. Mr. Deal requests this relief because, due to his indigent status, he cannot afford the payments necessary to permit Federal Probation Services to perform the electronic monitoring required under Mr. Deal's conditions of probation.

As grounds therefore, Mr. Deal states as follows:

1. Mr. Deal pled guilty before this Court, on March 9, 2005, to a one-count Information charging him with conspiracy to deal in counterfeit obligations of the United States in violation of 18 U.S.C. § 371.

2. On July 7, 2005, this Court sentenced Mr. Deal to three years probation, with the first 12 months to include home detention with a condition of electronic monitoring. The Court further ordered that Mr. Deal was to pay the cost of his electronic monitoring.
3. Following the sentencing yesterday, the undersigned counsel learned from the United States Probation Department that the costs of electronic monitoring would include: (1) \$3.47 per day (or a total of \$1,266.55 for the 12-month period of electronic monitoring ordered); and (2) a payment of \$15.00 for Verizon to initiate service of a home telephone line and \$28.35 per month for basic telephone service (or a total of \$355.20 for the entire 12-month period).
4. Mr. Deal simply cannot afford these costs. As the Presentence Report ("PSR") in this case recounts, Mr. Deal works hard at his job, but he earns only approximately \$1,600 per month. His rent, utilities, transportation and auto insurance alone total almost \$1,300 monthly. (PSR ¶ 75) In order to have some telephone access, Mr. Deal buys prepaid minutes on his cellular phone; he has no telephone service at his apartment because he cannot afford to pay for it. In short, it will simply be impossible for him to pay the costs associated with his electronic monitoring if he is to have basic shelter and food.
5. United States Probation Officer Joseph LaFratta, Mr. Deal's Probation Officer, has informed the undersigned that he takes no position regarding Mr. Deal's application to delete the requirement that Mr. Deal pay the costs of the electronic monitoring.

WHEREFOR, based upon the foregoing, Mr. Deal respectfully requests:

1. That the Court amend Mr. Deal's probation conditions to delete the condition requiring him to pay the cost of his electronic monitoring;

2. That in view of Mr. Deal's indigent status, the Court order payment of the costs of the telephone service required for Mr. Deal's electronic monitoring either by Federal Probation Services, pursuant to a grant of funds under the Criminal Justice Act, or otherwise. Copies of both CJA Form 21 and the form entitled Advance Authorization For Investigative, Expert or Other Services are attached, should the Court decide to have the costs paid pursuant to the CJA.

Respectfully submitted,

PATRICK DEAL,
by his attorneys,

/s/ Diana K. Lloyd
Diana K. Lloyd (BBO# 560586)
Alton A. J. Harmon (BBO# 655832)
CHOATE, HALL & STEWART
Exchange Place
53 State Street
Boston, MA 02109
Telephone: (617) 248-5000

Dated: July 8, 2005

CJA 21 AUTHORIZATION AND VOUCHER FOR EXPERT AND OTHER SERVICES (Rev. 5/99)

1. CIR/DIST/ DIV. CODE MAX1		2. PERSON REPRESENTED DEAL, PATRICK		VOUCHER NUMBER 1	
3. MAG. DKT/DEF. NUMBER		4. DIST. DKT/DEF. NUMBER 04-10185-GAO		5. APPEALS DKT/DEF. NUMBER	
7. IN CASE/MATTER OF (Case Name) United States v. Patrick Deal		8. PAYMENT CATEGORY <input checked="" type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor <input type="checkbox"/> Appeal		9. TYPE PERSON REPRESENTED <input checked="" type="checkbox"/> Adult Defendant <input type="checkbox"/> Juvenile Defendant <input type="checkbox"/> Other	
		<input type="checkbox"/> Petty Offense <input type="checkbox"/> Other		10. REPRESENTATION TYPR (See Instructions) <input type="checkbox"/> Appellant <input type="checkbox"/> Appellee	
11. OFFENSE(S) CHARGED (Cite U.S. Code, Title & Section) If more than one offense, list (up to five) major offenses charged, according to severity of offense. Conspiracy to deal in counterfeit obligations of the U.S. 18 USC Sect. 371					
REQUEST AND AUTHORIZATION FOR EXPERT SERVICES					
12. ATTORNEY'S STATEMENT As the attorney for the person represented, who is named above, I hereby affirm that the services requested are necessary for adequate representation. I hereby request: <input checked="" type="checkbox"/> Authorization to obtain the service. Estimated Compensation and Expenses: \$ 355.20 OR <input type="checkbox"/> Approval of services already obtained to be paid for by the United States pursuant to the Criminal Justice Act. (Note: Prior authorization should be obtained for services in excess of \$300, excluding expenses.) Signature of Attorney: <u><i>Diana K. Lloyd</i></u> Date: <u>7/8/05</u> <input checked="" type="checkbox"/> Panel Attorney <input type="checkbox"/> Retained Attorney <input checked="" type="checkbox"/> Pro-Se <input type="checkbox"/> Legal Organization ATTORNEYS NAME (First Name, M.I., Last Name, including any suffix), AND MAILING ADDRESS Diana K. Lloyd Choate Hall & Stewart 53 State Street, Boston, MA 02109 Telephone Number: <u>617-248-5163</u>					
13. DESCRIPTION OF AND JUSTIFICATION FOR SERVICES (See Instructions) Installation of phone service and monthly phone service for 12 months necessary to comply with court order for elec. monitor			14. TYPE OF SERVICE PROVIDER 01 <input type="checkbox"/> Investigator 02 <input type="checkbox"/> Interpreter/Translator 03 <input type="checkbox"/> Psychologist 04 <input type="checkbox"/> Psychiatrist 05 <input type="checkbox"/> Polygraph 06 <input type="checkbox"/> Documents Examiner 07 <input type="checkbox"/> Fingerprint Analyst 08 <input type="checkbox"/> Accountant 09 <input type="checkbox"/> CALR (Westlaw/Lexis, etc.) 10 <input type="checkbox"/> Chemist/Toxicologist 11 <input type="checkbox"/> Ballistics 12 <input type="checkbox"/> Weapons/Firearms/Explosive Expert 13 <input type="checkbox"/> Pathologist/Medical Examiner 15 <input type="checkbox"/> Other Medical 16 <input type="checkbox"/> Voice/Audio Analyst 17 <input type="checkbox"/> Hair/Fiber Expert 18 <input type="checkbox"/> Computer (Hardware Software/Systems) 19 <input type="checkbox"/> Paralegal Services 20 <input type="checkbox"/> Legal Analyst/Consultant 21 <input type="checkbox"/> Jury Consultant 22 <input type="checkbox"/> Mitigation Specialist 23 <input type="checkbox"/> Duplication Services (See Instructions) 24 <input checked="" type="checkbox"/> Other (Specify) <u>phone company</u>		
15. COURT ORDER Financial eligibility of the person represented having been established to the Court's satisfaction. The authorization requested in Item 12 is hereby granted. Signature of Presiding Judicial Officer or By Order of the Court _____ Date of Order _____ Nunc Pro Tunc Date _____ Repayment or partial repayment ordered from the person represented for this service at time of authorization. <input type="checkbox"/> YES <input type="checkbox"/> NO					
CLAIM FOR SERVICES AND EXPENSES			FOR COURT USE ONLY		
16. SERVICES AND EXPENSES (Attach itemization of services with dates)		AMOUNT CLAIMED		MATH/TECHNICAL ADJUSTED AMOUNT	
a. Compensation					
b. Travel Expenses (lodging, parking, meals, mileage, etc.)					
c. Other Expenses					
GRAND TOTALS (CLAIMED AND ADJUSTED):					
17. PAYEE'S NAME (First Name, M.I., Last Name, including any suffix), AND MAILING ADDRESS Verizon PO Box 1, Worcester, MA 01654 TIN: _____ Telephone: _____ CLAIMANT'S CERTIFICATION FOR PERIOD OF SERVICE _____ TO _____ CLAIM STATUS <input type="checkbox"/> Final Payment <input type="checkbox"/> Interim Payment Number _____ <input type="checkbox"/> Supplemental Payment I hereby certify that the above claim is for services rendered and is correct, and that I have not sought or received payment (compensation or anything of value) from any other source for these services. Signature of <u>(services not yet rendered)</u> Date _____					
18. CERTIFICATION OF ATTORNEY I hereby certify that the services were rendered for this case. Signature of <u><i>Diana K. Lloyd</i></u> Date <u>7/8/05</u>					
APPROVED FOR PAYMENT - COURT USE ONLY					
19. TOTAL COMPENSATION		20. TRAVEL EXPENSES		21. OTHER EXPENSES	
				22. TOTAL AMOUNT APPROVED/CERTIFIED	
23. <input type="checkbox"/> Either the cost (excluding expenses) of these services does not exceed \$300, or prior authorization was obtained. <input type="checkbox"/> Prior authorization was not obtained, but in the interest of justice the Court finds that timely procurement of these necessary services could not await prior authorization, even though the cost (excluding expenses) exceeds \$300. Signature of Presiding Judicial Officer _____ Date _____ Judge/Mag. Judge Code _____					
24. TOTAL COMPENSATION		25. TRAVEL EXPENSES		26. OTHER EXPENSES	
				27. TOTAL AMOUNT APPROVED	
28. PAYMENT APPROVED IN EXCESS OF THE STATUTORY THRESHOLD UNDER 18 U.S.C. § 3006A(e)(3) Signature of Chief Judge, Court of Appeals (or Delegate) _____ Date _____ Judge Code _____					

MEMORANDUM

TO: Chief Judge Boudin, U.S. Court of Appeals for the First Circuit

DATE: July 8, 2005

FROM: Diana K. Lloyd, Attorney for Patrick Deal

SUBJECT: Advance Authorization for Investigative, Expert or Other Services

It is requested that advance authorization be granted to obtain services in an amount in excess of the maximum allowed under the provisions of subsection (e)(3) of the Criminal Justice Act, 18 U.S.C. § 3006A, as follows:

Case Name & Designation: *United States of America v. Patrick Deal*, No. 04-10185-GAO

Name of Expert or Investigation or Service Provider: Verizon

Address: PO Box 1, Worcester, MA 01654 (800) 870-9999

Type of Service: telephone service to enable electronic monitoring

Reasons for Application: The District Court for the District of Massachusetts has ordered electronic monitoring as a condition of probation for the above-referenced defendant, who is my client. He is indigent and is unable to pay the cost of the telephone service necessary as part of the electronic monitoring process.

Estimated Compensation (Non-Capital Case): \$ 355.20

I certify that the estimated compensation in excess of the maximum set forth in 18 U.S.C. § 3006A(e)(3) appears necessary to provide fair compensation for services of an unusual character or duration and therefore recommend approval of this advance authorization in the amount of \$355.20.

Advance authorization is hereby approved in the amount of _____.

United States District Judge

Date